

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

St. Paul Fire and Marine Insurance Company

(b) County of Residence of First Listed Plaintiff Hartford, CT
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Paola Tripodi Kaczynski, William J. Ferren & Associates, 1500 Market Street,
Suite 2920, Philadelphia, PA 19102 - 267-675-3009

DEFENDANTS

R & Q Reinsurance Company, as Successor in Interest to INA Reinsurance Company

County of Residence of First Listed Defendant Philadelphia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HLA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

Breach of Contract, Declaratory Judgment and Anticipatory Breach of Contract againsts R & Q Reinsurance Company

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes ☐ No ☒

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10/07/2015

SIGNATURE OF ATTORNEY OF RECORD

Paola Tripodi Kaczynski, Attorney at Law

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ AG JUDGE _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**


CASE MANAGEMENT TRACK DESIGNATION FORM

ST. PAUL FIRE AND MARINE INSURANCE COMPANY	:	CIVIL ACTION
	:	
v.	:	
	:	
R & Q REINSURANCE COMPANY	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>10/7/15</u> Date	 Attorney-at-law	Plaintiff, St. Paul Fire and Attorney for Marine Ins. Company
<u>267-675-3009</u> Telephone	<u>267-675-3036</u> FAX Number	<u>pkaczyns@travelers.com</u> E-Mail Address

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

ST. PAUL FIRE AND MARINE INSURANCE :
COMPANY :

CIVIL ACTION

v. :

R & Q REINSURANCE COMPANY :

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

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- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special-management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

10/7/15 
Date Attorney-at-law

Plaintiff, St. Paul Fire and
Attorney for Marine Ins. Company

267-675-3009 267-675-3036

pkaczyns@travelers.com

Telephone

FAX Number

E-Mail Address

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: St. Paul Fire and Marine Insurance Company

Address of Defendant: R & Q Reinsurance Company as Successor in Interest to INA Reinsurance Company
 Place of Accident, Incident or Transaction: Philadelphia, PA

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☒ No ☐

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
 Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
 Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
 Yes ☐ No ☐
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
 Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
 (Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☒ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, _____, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: _____

Attorney-at-Law

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 10/7/15

Attorney-at-Law

57602

Attorney I.D.#

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

ST. PAUL FIRE AND MARINE INSURANCE
COMPANY,

Plaintiff,

v.

R&Q REINSURANCE COMPANY, as
successor in interest to INA REINSURANCE
COMPANY,

Defendant.

COMPLAINT

Plaintiff St. Paul Fire and Marine Insurance Company (“St. Paul”), by its counsel, brings this Complaint for breach of contract, declaratory judgment, and anticipatory breach of contract against Defendant R&Q Reinsurance Company (“R&Q”).

NATURE OF THE CASE

1. This action arises out of R&Q's: (a) refusal to reimburse St. Paul for amounts billed to R&Q under Facultative Reinsurance Contract No. FRC033366 ("Contract No. FRC033366"), issued to St. Paul by R&Q's predecessor in interest, INA Reinsurance Company ("INA"); (b) refusal to acknowledge that INA issued a second reinsurance contract to St. Paul, Facultative Reinsurance Contract No. FRC029550 ("Contract No. FRC029550"), despite substantial evidence establishing the existence of that contract; and (c) refusal to reimburse St. Paul for any amounts due to R&Q under Contract No. FRC029550.

THE PARTIES

2. St. Paul Fire and Marine Insurance Company is a corporation duly organized and existing under the laws of the State of Connecticut with its principal place of business located in Hartford, Connecticut.

3. On information and belief, Defendant R&Q Reinsurance Company is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with its principal place of business located in Philadelphia, Pennsylvania. On information and belief, R&Q maintains its assets in Pennsylvania. R&Q took over responsibility for losses insured and/or reinsured by its predecessor in interest, INA, in or around 2006. On information and belief, INA was a corporation organized under the laws of the Commonwealth of Pennsylvania with its principal place of business located in Philadelphia, Pennsylvania.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 1332 and 2201. There is complete diversity of citizenship between the Plaintiff St. Paul and Defendant R&Q, and the amount in controversy exceeds \$75,000, exclusive of interest and costs. The dispute between the parties constitutes an actual and ripe controversy.

5. This Court has personal jurisdiction over R&Q because it is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania.

6. This Court also has personal jurisdiction over R&Q because it has subjected and availed itself of and to the jurisdiction of the Commonwealth of Pennsylvania pursuant to 42 Pa. C.S.A. § 5322(a)(1), by transacting business in this jurisdiction.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391, because R&Q is subject to personal jurisdiction in this district.

FACTUAL ALLEGATIONS

The Underlying Asbestos Claims

8. Walter E. Campbell Company, Inc. ("WECCO") has been named as a defendant in thousands of lawsuits seeking damages for asbestos-related injuries (the "Underlying Asbestos Claims"). St. Paul participates in defending and indemnifying WECCO in connection with the Underlying Asbestos Claims, under liability insurance policies issued to WECCO by St. Paul.

9. Two of the policies under which St. Paul participates in the defense and indemnity of WECCO are excess liability policies: (a) Policy No. 581XD7801, with a policy period of April 1, 1981 to April 1, 1982; and (b) Policy No. 581XD4769, with a policy period of April 1, 1980 to April 1, 1981.

10. St. Paul has paid in excess of \$10 million, on behalf of WECCO, under the above-referenced excess liability policies in connection with the Underlying Asbestos Claims.

The Reinsurance Contracts

11. R&Q's predecessor in interest, INA, issued Contract No. FRC033366 to St. Paul. Contract No. FRC033366 is a type of reinsurance contract known as a "facultative certificate". A facultative certificate is a reinsurance contract that reinsures all or a portion of the liability arising under a particular policy.

12. Contract No. FRC033366 reinsures liability arising under Policy No. 581XD7801, issued by St. Paul to WECCO. The stated limits of Contract No. FRC033366 are \$4 million -- each occurrence/aggregate -- excess of \$1 million, each occurrence/aggregate. As a result, R&Q is obligated to reimburse St. Paul under Contract No. FRC033366 for amounts in excess of \$1 million, which were paid by St. Paul under Policy No. 581XD7801.

13. Contract No. FRC033366 indicates on its face that it is a renewal of a second facultative certificate, Contract No. FRC029550, which was also issued to St. Paul by INA. Contract No. FRC029550 reinsures liability under Policy No. 581XD4769. Upon information and belief, the limits of Contract No. FRC029550 are identical to the limits of Contract No. FRC033366. As a result, R&Q is obligated to reimburse St. Paul under Contract No. FRC029550 for amounts in excess of \$1 million, which were paid by St. Paul under Policy No. 581XD4769.

R&Q's Delay Tactics And Refusal To Pay Under FRC033366

14. On or around April 9, 2013, St. Paul sent an initial notice of loss to R&Q pursuant to Contract No. FRC033366, arising from St. Paul's payment of Underlying Asbestos Claims under Policy No. 581XD7801.

15. In July and August 2013, R&Q requested documentation indicating that Policy No. 581XD7801 was reinsured under Contract No. FRC033366. In September 2013, St. Paul provided such documentation to R&Q, and R&Q has since acknowledged that Policy No. 581XD7801 is reinsured under Contract No. FRC033366.

16. Between September 2013 and August 2014, St. Paul repeatedly requested information from R&Q concerning the status of R&Q's investigation of St. Paul's notice of loss under Contract No. FRC033366. R&Q repeatedly declined to provide any substantive response to St. Paul. Instead, R&Q stated time and again that St. Paul's claim was being transferred between different members of R&Q's claims handling department, and that a response would be provided sometime in the future.

17. On August 11, 2014, still having received no substantive response from R&Q, St. Paul issued a bill to R&Q in the amount of \$4,415,711.95, under Contract No. FRC033366,

representing R&Q's share of the payments made by St. Paul on behalf of WECCO under Policy No. 581XD7801, plus certain covered expenses.

18. On August 20, 2014, R&Q finally provided its first substantive response to St. Paul's notice of loss under Contract No. FRC033366, which consisted of a series of objections and a litany of requests for information that R&Q had neglected to raise over the preceding sixteen months.

19. On November 7, 2014, though under no contractual obligation to do so, St. Paul responded in detail to R&Q's August 20, 2014 communication.

20. In response to St. Paul's November 7, 2014 correspondence, R&Q sent another e-mail to St. Paul, dated December 16, 2014, which: (a) re-raised many of the same questions that St. Paul had previously answered on November 7, 2014; and (b) requested still more information.

21. On July 17, 2015, St. Paul issued another detailed response to R&Q's queries.

22. Despite the significant passage of time from the date of St. Paul's initial billing, and the fact that all of R&Q's questions have been answered on two separate occasions, R&Q still has not paid any portion of St. Paul's August 11, 2014 billing.

R&Q's Refusal To Acknowledge Certificate No. FRC029550

23. Although R&Q ultimately acknowledged that INA issued Contract No. FRC033366 to St. Paul, R&Q has not acknowledged that INA also issued Contract No. FRC029550.

24. St. Paul has provided R&Q with substantial evidence establishing the existence of Contract No. FRC029550, including the face of Contract No. FRC033366, which indicates that it is a renewal of Contract No. FRC029550.

25. In addition, R&Q has located a claim file in its own system for Contract No. FRC029550. R&Q would, of course, have had no reason to handle a claim under a non-existent reinsurance contract.

26. Even though both St. Paul's and R&Q's files contain evidence that INA issued Contract No. FRC029550 to St. Paul, R&Q refuses to acknowledge its existence.

27. St. Paul has made payments under Policy No. 581XD4769 that are sufficient to trigger R&Q's payment obligations under Contract No. FRC029550. St. Paul has not yet billed R&Q under Contract No. FRC029950, due to R&Q's refusal to acknowledge the existence of that facultative certificate.

FIRST CAUSE OF ACTION – BREACH OF CONTRACT

28. St. Paul repeats and incorporates herein by reference the allegations contained in Paragraphs 1 through 27 above as if fully set forth herein.

29. Contract No. FRC033366 is a valid and binding contract under which R&Q is obligated to reimburse St. Paul for indemnity and expense payments made by St. Paul under Policy No. 581XD7801.

30. R&Q has breached its contractual and legal obligations by: (a) failing and refusing to pay outstanding amounts billed to R&Q by St. Paul under Contract No. FRC033366; (b) raising meritless objections; and (c) forcing St. Paul to initiate this litigation, in order to obtain payment.

31. St. Paul has been damaged by R&Q's breaches in the principal amount of \$4,415,711.95, plus interest.

SECOND CAUSE OF ACTION – DECLARATORY JUDGMENT

32. St. Paul repeats and incorporates herein by reference the allegations contained in Paragraphs 1 through 31 above as if fully set forth herein.

33. Contract No. FRC029550 is a valid and binding contract under which R&Q is obligated to reimburse St. Paul for indemnity and expense payments made by St. Paul under Policy No. 581XD4769.

34. St. Paul has provided R&Q with evidence sufficient to establish the existence of, and the coverage provided by, Contract No. FRC029550.

35. R&Q refuses to acknowledge the existence of, or the coverage provided by, Contract No. FRC029550.

36. As a result of the foregoing, an actual, ripe and justiciable controversy exists between the parties, and St. Paul is entitled to a declaration in its favor stating that R&Q is obligated to indemnify St. Paul for 100% of \$4 million in excess of \$1 million, under Contract No. FRC029550, in connection with amounts paid by St. Paul under Policy No. 581XD4769.

THIRD CAUSE OF ACTION – ANTICIPATORY BREACH OF CONTRACT

37. St. Paul repeats and incorporates herein by reference the allegations contained in Paragraphs 1 through 36 above as if fully set forth herein.

38. R&Q has anticipatorily renounced its obligations to St. Paul under Contract No. FRC029550 by seeking a judicial determination that R&Q is not obligated to reimburse St. Paul for amounts due under Contract No. FRC029550. *See Complaint at 7-9, R&Q Reinsurance Co. v. St. Paul Fire & Marine Ins. Co.*, 1:15-cv-07784 (N.D. Ill. Sept. 4, 2015).

39. R&Q's request for a determination that it has no obligation to reimburse St. Paul under Contract No. FRC029550 demonstrates a distinct and positive statement of its unwillingness to perform its obligations to St. Paul under Contract No. FRC029550.

40. R&Q has anticipatorily breached its contractual and legal obligations by unequivocally refusing to perform its obligations to St. Paul under Contract No. FRC029550.

41. St. Paul has been damaged by R&Q's breaches in the principal amount of \$4,509,684.41, plus interest.

PRAYER FOR RELIEF

WHEREFORE, St. Paul respectfully requests that the Court enter a judgment in its favor:

- a. on Count I of this Complaint in the amount of \$4,415,711.95, plus interest, attorneys' fees, and costs;
- b. on Count II of this Complaint, declaring that R&Q is obligated to indemnify Travelers under Contract No. FRC029550;
- c. on Count III of this Complaint in the amount of \$4,509,684.41, plus interest, attorneys' fees, and costs; and
- d. granting such other and further relief as the Court may deem to be just and appropriate in the circumstances.

ST. PAUL FIRE AND MARINE INSURANCE
COMPANY,

By its attorneys,

/s/ Paola T. Kaczynski

Paola T. Kaczynski

pkaczyns@travelers.com

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CHOATE, HALL & STEWART LLP

Two International Place

Boston, MA 02110

Tel.: (617) 248-5000

Fax: (617) 248-4000

Date: October 7, 2015

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

/s/ Paola T. Kaczynski